



STATE BOARD OF EQUALIZATION

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MICHELLE STEEL
Third District, Rolling Hills Estates

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Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

STATE BOARD OF EQUALIZATION MEETING 450 N Street, Room 121, Sacramento May 31-June 1, 2007 NOTICE AND AGENDA Meeting Agenda (as of 7:47 p.m., 5-31-07) [Agenda Changes](#)

Thursday, May 31, 2007

[“Recorded Audio from May 31, 2007”](#)

Board Committee Meetings convene at 9:30 a.m.*

Board Meeting convenes upon adjournment of the Board Committee Meetings.**

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chairwoman, Ms. Yee, may modify the order of the items on the agenda.

BOARD COMMITTEE MEETINGS*

[Business Taxes Committee.....Ms. Yee, Committee Chairwoman+](#)

1. Regulation 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, regarding the direct allocation of the use tax to the jurisdiction of use.
2. Regulation 1803, *Application of Tax*, regarding the application of the local sales and use tax.

[Legislative Committee Ms. Chu, Committee Chairwoman+](#)

Suggestions for Sales and Use Taxes legislation to be sponsored by the Board in the first year of the 2007-2008 Legislative Session. Additional suggestions will be included on the agenda for July 2007.

➤ **2007 Legislative Proposals-Business Taxes (Sales and Use Taxes)**

- Add Section 6592.6 to the Revenue and Taxation Code to impose interest on a daily basis in cases where the Board, itself, meeting as a public body finds, taking into account all facts and circumstances, that it would be inequitable to

impose an entire month's interest on a prepayment or payment made one day late, under specified circumstances. Similar provisions would be incorporated into the special tax and fee laws administered by the Board.

➤ **Legislative Bills – Recommendation for Board Positions:**

- SB 38 (Battin): Property Tax-Disaster Relief, Fires
- SB 114 (Florez): Property Tax-Disaster Relief, Freeze
- SB 148 (Hollingsworth): Property Tax-Freeze, Damaged Trees
- SB 920 (Oropreza): Unclaimed Property–Information for Controller
- AB 62 (Nava): Property Tax-Disaster Relief, Fires
- AB 297 (Maze): Property Tax-Freeze, Damaged Trees

Customer Services And AdministrativeMr. Leonard, Committee Chair+ Efficiency Committee

1. Update on the Legislative Analyst's Office "A Report on Tax Agency Information and Data Exchange," including current data exchanges, future data sharing efforts, governance structure to facilitate data exchanges, and potential technology solutions to enable more efficient exchanges.

BOARD MEETING

ORAL HEARINGS

A. Homeowner and Renter Property Tax Assistance Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

A1. Leonardo L. Calica, 377400

For Claimant: Leonardo L. Calica, Taxpayer

For Franchise Tax Board: Lisa Lawson, Tax Counsel

A2. Mary E. Knox, 378575

For Claimant: Mary E. Knox, Taxpayer

For Franchise Tax Board: Lisa Lawson, Tax Counsel

B. Corporate Franchise And Personal Income Tax Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

B1. Cedo Popovic and Mirjana Popovic, 353602

For Claimant: Mirjana Popovic, Taxpayer

Cedo Popovic, Taxpayer

For Franchise Tax Board: Jane Perez, Tax Counsel

- B2. ~~Taiheiyō Cement USA, Inc., 332855~~**
 ~~For Appellant: Jess B. Penilla, Representative~~
 ~~Peter Seidel, Representative~~
 ~~For Franchise Tax Board: Ann Hodges, Tax Counsel~~
- B3. Kenneth B. Rawlings and Linda E. Rawlings, 343163**
 For Claimant: Christopher Whitney, CPA
 Barry Weissman, Representative
 For Franchise Tax Board: Renel Sapiandante, Tax Counsel

C. Sales and Use Tax Appeals Hearings

These items are scheduled for the afternoon session.

D. Special Taxes Appeals Hearings

There are no items for this matter.

E. Property Tax Appeals Hearings

There are no items for this matter.

F. Public Hearing

These items are scheduled for June 1, 2007.

G. TAX PROGRAM NONAPPEARANCE MATTERS – CONSENT

(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

G1 Legal Appeals MattersMr. Levine

- Hearing Notice Sent – No Response
 1. AT&T Capital Leasing Services, 313549, 330371 (OHB)
- Petitions for Release of Seized Property
 2. Cleopatra Smokes, Inc., 392273 (ET)
 3. Jong Hoon Ko, 387415 (ET)
 4. Raif Badwan, 395645 (ET)
 5. Bashar Nagi Algabyali, 390979 (ET)
 6. Samrith Vong, 390974 (ET)

G2 Franchise and Income Tax MattersMs. Kelly

- Petition for Rehearing
 1. James O. Delozier, 317251

G3 Homeowner and Renter Property Tax Assistance Matters

There are no items for this matter.

G4 Sales and Use Taxes Matters Ms. Henry

- Redeterminations
 1. Atlantic Richfield Company, 342563 (AA)
 2. Regents of the University of Cal, 341720 (BH)
 3. Electronics for Imaging, Inc., 372073 (BH)
 4. Sutter's Place, Inc., 325628 (GH)
 5. Olympus America, Inc., 328703 (OHB)
 6. Pactiv Corporation, 332326 (OHA)
 7. Lancaster Group US, LLC, 301404 (OHB)
 8. Edison Material Supply, LLC, 303526 (EAB)
 9. Edison Material Supply, LLC, 325636 (EAB)
 10. Edison Material Supply, LLC, 351534 (EAB)
 11. GB Import Sales & Service, LLC, 266102 (AS)
 12. Tyco Plastics LP, 353330 (OHA)
 13. Metalforming, Inc., 353090 (OHA)
 14. Stremicks Heritage Foods, Inc., 296288 (EA)
 15. Powerlight Corporation, 372396 (CH)
 16. Louis Leon Fattoruso, 310557 (EHC)
- Relief of Penalty/Interest
 17. Agilent Technologies, Inc., 394654 (GH)
 18. Netversant National, Inc., 392139 (OHC)
 19. Ontario L., LLC, 394673 (EH)
- Denials of Claims for Refund
 20. Computer Sciences Corporation, 395199 (AS)
 21. American Telephone-Telegraph Company, 250022 (OHB)
 22. Epsilon Trading, Inc., 389926 (OHA)
 23. Americredit Financial Service, Inc., 289485 (OHC)
 24. Newport Acceptance Corporation, 395197 (EA)

G5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds..... Ms. Henry

- Credits and Cancellations
 1. Polymer Machinery Company, 393428 (OHA)
 2. SPA Mart, Inc., 393465 (KH)
 3. Allan Bryan Coon, 394787 (AR)
- Refunds
 4. Technicolor, Inc., 388476 (AC)
 5. Ceradyne, Inc., 377109 (EAA)
 6. Chevron U.S.A., Inc., 355876 (BH)
 7. Computer Sciences Corporation, 204176 (AS)
 8. Computer Sciences Corporation, 314683 (AS)
 9. The Golden 1 Credit Union, 339201 (KH)
 10. Motorola, Inc., 388449 (OHA)
 11. Epsilon Trading, Inc., 194157 (OHA)
 12. NEC Corporation of American, 358660 (KH)
 13. Hempel USA, Inc., 388998 (OHC)
 14. Daimler Chrysler Corporation, 390178 (CHA)

15. Western United Insurance Company, 360867 (EAA)
16. Mercedes-Benz USA, LLC, 383135 (KH)
17. Cepheid, 393630 (GH)
18. Netflix, Inc., 271160 (GH)
19. Montgomery Ward, LLC, 394694 (OHA)
20. WFS Financial Inc., 387737 (EAA)
21. Sonic-Buena Park H, Inc., 360044 (EA)
22. Hydril Company LP, 215275 (OHC)
23. Patelco Credit Union, 387736 (BH)
24. Travis Credit Union, 381013 (JHF)
25. Wescom Credit Union, 383296 (AP)
26. Altura Credit Union, 336866 (EH)
27. All Good Pallets, Inc., 388178 (CH)
28. Americredit Financial Service, Inc., 351502 (OHC)
29. Americredit Financial Service, Inc., 271446 (OHC)
30. Lobel Financial Corporation, 384570 (EA)
31. Newport Acceptance Corporation, 296477 (EA)
32. Westlake Services, Inc., 381011 (AS)
33. Orange County's Credit Union, 351401 (EA)
34. CIG Financial, 380442 (EAA)
35. Sun Community Federal Cre Union, 265062 (FHA)
36. Meriwest Credit Union, 313714 (GH)
37. First City Credit Union, 357058 (AS)
38. Golden Bay Federal Credit Union, 325771 (GH)

G6 Special Taxes MattersMs. Stuckey

- Relief of Penalty
 1. Big West of California, LLC, 394514 (MT)
 2. Wal-Mart Stores, Incorporated, 390025 (ER)
- Denials of Claims for Refund
 3. Paramount Petroleum Corporation, 169046 (MT)
 4. Paramount Petroleum Corporation, 216272 (MT)
 5. Paramount Petroleum Corporation, 303346 (MT)
 6. Paramount Petroleum Corporation, 307629 (MT)
 7. Paramount Petroleum Corporation, 349783 (MT)

G7 Special Taxes Matters – Credits, Cancellations, and Refunds.....Ms. Stuckey

- Credits and Cancellations
 1. Smiland Paint Company, 395174 (MT)
- Refunds
 2. Metropolitan Life Insurance Company, 388764 (ET) - “CF”

There are no items for the following matters:

G8 Property Tax Matters

G9 Cigarette License Fee Matters

G10 Legal Appeals Property Tax Matters

H. TAX PROGRAM NONAPPEARANCE MATTERS – ADJUDICATORY
(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

H1 Legal Appeals MattersMr. Levine

- Petitions for Rehearing
 1. Orna Amzaleg, 171769 (AS)
- Memo Opinions
 2. Robert L. Reynolds, 208940 (KHM)
 3. Hosmer Chandler McKoon, 273016 (EA)
- Cases Heard but not Decided
 4. Global Micro, Inc., 273209 (EH)

There are no items for the following matters:

- H2 Franchise and Income Tax Matters
- H3 Homeowner and Renter Property Tax Assistance Matters
- H4 Sales and Use Taxes Matters

H5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds..... Ms. Henry

- Credit and Cancellation
 1. Federated Pub AUC Agency of Upland, 382422 (EH)
- Refund
 2. Modern Finance Company, 378340 (AC)

There are no items for the following matters:

- H6 Special Taxes Matters
- H7 Special Taxes Matters – Credits, Cancellations, and Refunds
- H8 Property Tax Matters
- H9 Cigarette License Fee Matters
- H10 Legal Appeals Property Tax Matters

I. TAX PROGRAM NONAPPEARANCE MATTERS
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

I1 Property Taxes Matters Mr. Siu

- Audits
 1. Pacific Bell Telephone Company (279) – “CF”
 2. Total Call International, Inc. (7876) – “CF”
- Unitary Escaped Assessments
 3. (a) Verizon Wireless (2513) – “CF”
 - (b) Cingular Wireless, LLC (2606) – “CF”
 - (c) Sprint PCS (2720) – “CF”
 - (d) Cricket Communications, Inc. (2762) – “CF”

I2 Offers-in-Compromise RecommendationsMs. Ogrod

1. Jackie La Douceur
2. Renaissance Home, Inc.
3. James Medel

CHIEF COUNSEL MATTERS

This matter is scheduled for Friday, June 1, 2007

J. Rulemaking

There are no items for the following matters:

- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

ADMINISTRATIVE SESSION

These matters are scheduled for Friday, June 1, 2007:

- N. Consent Agenda
- O. Approval of Board Committee Meeting Minutes
- P. Other Administrative Matters

Q. Closed Session

This matter is scheduled for Friday, June 1, 2007

BOARD MEETING RECONVENES AT 1:30 P.M.***BOARD MEMBER ANNUAL PHOTOGRAPH****STATE ASSESSED PROPERTIES VALUE SETTING**

- Property Tax Matter - "CF"Mr. Siu+

Board sets unitary values of state-assessed properties annually, on or before May 31. The Board is required to value and assess all the taxable property within the state that is to be assessed by it, pursuant to section 19 of Article XIII of the Constitution and any legislative authorization there under.

ADMINISTRATIVE MATTER

- Adoption of 4-R Act Equalization Ratio for 2007-08Mr. Hayes+

Rail transportation property is to be assessed at the same percentage of market value as all other commercial/industrial property.

ORAL HEARINGS

C. Sales and Use Tax Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

- C1. Warner Company Jewelers, Inc., 285782 (KH)
For Petitioner: Don Wolfe, CFO, Warner Company
Matt Mandell, CPA
For Department: Carla Caruso, Tax Counsel
- C2. Molino Enterprizes, Inc., 312681 (CH)
For Petitioner: Eddie Hugley, Bookkeeper
For Department: Kevin Hanks, Hearing Representative
- C3.a. LMD International, Inc., 221804 (AC)
C3.b. LMD Warehouse & Distribution Corporation, 221808 (AB)
C3.c. Louis Diblosi, Jr., 221803 (AC)
For Petitioner: Louis Diblosi, Jr. Taxpayer
For Department: Robert Tucker, Tax Counsel
- C4. Le Dac Nguyen, 298668 (CH)
For Petitioner: Le Nguyen, Taxpayer
Wade R. Kawakami, CPA
For Department: Kevin Hanks, Hearing Representative

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The hearing location is accessible to people with disabilities. Please contact Claudia Madrigal at (916) 324-8261, or e-mail Claudia.Madrigal@boe.ca.gov if you require special assistance.

Gary Evans, Acting Chief
Board Proceedings Division

- * Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
 - ** Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.
 - + Material is available for this Item.
- "CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9



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STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
May 31-June 1, 2007
NOTICE AND AGENDA
Meeting Agenda (as of 7:48 a.m., 5-31-07)
Agenda Changes

Friday, June 1, 2007

“Recorded Audio from June 1, 2007”

Board Meeting convenes at 9:30 a.m. **

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BOARD MEETING

ORAL HEARINGS

A. Homeowner and Renter Property Tax Assistance Hearings

These items are scheduled for May 31, 2007.

B. Corporate Franchise and Personal Income Tax Hearings

These items are scheduled for May 31, 2007.

C. Sales and Use Tax Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

C5. Mariano T. Garcia, Jr., 288369 (CH)

For Petitioner: Scott Shoblom, Representative

For Department: Kevin Hanks, Hearing Representative

C6. Schilling Robotics, LLC, 295382 (JHF)

For Petitioner: Barton McDougal, CPA

For Department: Robert Stipe, Tax Counsel

Local Tax Reallocation Hearing

~~C7. City of Brisbane, City of Los Angeles, City of San Diego, City of San Jose, 384183~~

~~For Petitioner: Al Koch, Attorney, City of Brisbane~~

~~For Department: Carole Ruwart, Tax Counsel~~

City of Los Angeles:

For Affected Jurisdiction: Evelyn Fernandez Melone, Tax Auditor

City of San Jose:

For Affected Jurisdiction: David McPherson, Deputy Dir. Of Finance

D. Special Taxes Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

~~D1. Chevron USA, Inc., 165308, 215016, 260466, 260468, 306293, 346981~~

~~For Petitioner: Joseph Vinatieri, Representative~~

~~Jason C. DeMille, Attorney~~

~~David Tetz, Attorney~~

~~For Dept. of Health: Tim Ford, Representative~~

~~Services~~

~~For Department: Carolee Johnstone, Tax Counsel~~

E. Property Tax Appeals Hearings

There are no items for this matter.

F. Public Hearings

F1 Timber Harvest Values Mr. Tang+

On or before June 30, 2007, the Board will estimate the immediate harvest value and adopt schedules for each species or sub-classification of timber harvested between July 1 and December 31, 2007. Revenue and Taxation Code section 38204(a).

F2 Proposed Amendments to Regulation 1521, Construction Contractors Mr. Tucker+

Sales and Use Tax Regulation 1521, Construction Contractors, is proposed to be amended to provide that photovoltaic cells, solar panels, and solar modules should be considered materials when they function in the same manner as other materials such as roofing shingles, skylights, wall panels or windows, but that other photovoltaic cells, solar panels, and solar modules are accessory to a building and should be considered fixtures.

CHIEF COUNSEL MATTERS**J. Rulemaking****J1 Request for Authorization to Publish Amendment to Mr. Lambert+
Cigarette & Tobacco Products**

Request for authorization to publish amendments to Cigarette & Tobacco Products Regulation 4703, *Seizures and Forfeitures*, to clarify that licensed distributors are excluded from seizures of unstamped cigarettes and/or untaxed tobacco products.

**J2 Petition to Amend Property Tax Rule 462.060, *Change..... Mr. Lambert+
In Ownership - Life Estates and Estates for Years***

The petition proposes to change current law that the creation of a life estate always results in a change in ownership unless reserved for the transferor or the transferor's spouse.

J3 Petition to Amend Property Tax Rule 140.1, *Requirements Mr. Lambert+*

The petition proposes to change current law which requires all limited partnerships satisfy Rule 140.1 to qualify for the welfare exemption for low-income housing properties.

There are no items for the following matters:

- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

ADMINISTRATIVE SESSION**N. Consent Agenda Mr. Evans+****N1 Approval of Board Employee Retirement Resolution**

- Sheila Wilson

N2 Approval of Board Meeting Minutes

- March 20, 2007
- April 24-25, 2007

N3 Approval of form BOE-577, *Aircraft Property Statement***N4 Approve time extensions to Butte, Calaveras, Los Angeles, Madera, Orange, Tehama and Tulare Counties to complete and submit 2007-08 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155**

O. Approval of Board Committee Meeting Minutes

- O1 Request for approval of Business Taxes Committee meeting minutes
- O2 Request for approval of Legislative Committee meeting minutes
- O3 Request for approval of Customer Services and Administrative Efficiency Committee meeting minutes

P. Other Administrative Matters**P1 Executive Director's Report.....Mr. Hirsig**

- ~~1. HdL Companies Request for Location-Specific Reporting+ of Local Tax Discussion and Action~~
- 2. Taxpayers' Bill of Rights Follow-up – Mr. Gilman
 - a. Veterans Exemption+
 - b. Underground Storage Tank Maintenance Fee+
 - c. Update and status of other issues from 2007 Taxpayers' Bill of Rights Hearings

P2 Chief Counsel Report

There are no items for this matter.

P3 Deputy Director's Report**1. Sales and Use Tax..... Ms. Henry**

- a. Realignment of Sales and Use Tax Department+

2. Property and Special Taxes

There are no items for this matter.

3. Administration..... Mr. Gau

- a. BOE Headquarters Construction Update
 - (1) Windows and Deck Repair
 - (2) Air Quality Testing
- b. Interagency Agreement Contract Over \$1 Million+
- c. Budget Hearings Update

ANNOUNCEMENT OF CLOSED SESSION..... Mr. Evans**Q. Closed Session**

- Q1. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11)
- Q2. Pending Litigation: *County of Santa Clara, et al. v. State Board of Equalization*, San Francisco Superior Court No. CPF-06-506789 (Gov. Code, § 11126(e))
- Q3. Pending Litigation: *Equilon Enterprises LLC, dba Shell Oil Producers US v. California Board of Equalization and California Department of Health Services*, Sacramento Superior Court 05AS02406

- Q4. Pending Litigation *Smiland Paint Company, Conco Paint Company v. California Board of Equalization and California Department of Health Services*, Sacramento Superior Court 01CS01318
- Q5 Discussion and action on personnel matters (Gov. Code § 11126(a))

ANNOUNCEMENT OF OPEN SESSION Mr. Evans

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Gary Evans, Acting Chief
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